

TSU

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

NOMURA et al

Atty. Ref.: 159-83; Confirmation No. 5718

Appl. No. 10/758,217

TC/A.U. 1615

Filed: January 16, 2004

Examiner: Fubara

For: ANTIBACTERIAL COMPOSITION FOR TOPICAL ADMINISTRATION CONTAINING  
ANTIBIOTIC

\* \* \* \* \*

October 4, 2005

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**CLAIM FOR BENEFIT OF PRIORITY UNDER 35 USC §119(a)**

Applicants claim benefit of priority of PCT/JP99/00068 filed January 12, 1999 and Japanese patent application JP 4845/1988 filed January 13, 1998. A certified copy of the underlying Japanese application is of record in application no. 09/380,530 filed September 2, 1999 (now U.S. 6,365,635) as acknowledged in the Notification of Acceptance of Application under 35 U.S.C. §371 dated October 18, 1999, as well as in the Notice of Allowability, a copy of each of which is attached.

Please note that benefit of priority was also claimed in the transmittal letter dated January 16, 2004 submitting the subject application. A copy of the transmittal letter is also attached.

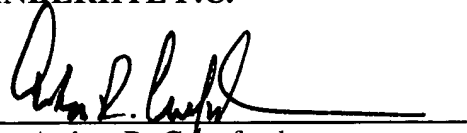
Accordingly, please acknowledge applicants claim for benefit of priority and receipt of certified copy of the Japanese priority document in the parent application.

NOMURA et al  
Appl. No. 10/758,217  
October 4, 2005

Respectfully submitted,

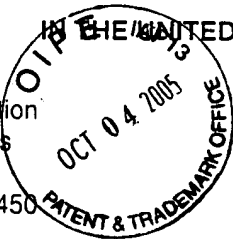
**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_



Arthur R. Crawford  
Reg. No. 25,327

ARC:eaw  
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## UNITED STATES PATENT AND TRADEMARK OFFICE

Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Atty. Dkt.: 159-83

Date: January 16, 2004

Attached for filing is the patent application of:

Inventor: NOMURA et al

Entitled: ANTIBACTERIAL COMPOSITION FOR TOPICAL ADMINISTRATION CONTAINING ANTIBIOTIC  
and including attachments as noted below:

☐ Newly executed Declaration, ☒ Copy of Declaration from prior application, ☒ Abstract

23 pages of specification and claims (including 10 numbered claims), and

☐ Attached is a Power of Attorney.

☒ Priority is hereby claimed under 35 U.S.C. § 119 based on the following foreign applications:

**Application Number**

**Country**

**Day/Month/Year Filed**

4845/1998

Japan

13 January 1998

PCT/JP99/00068

12 January 1999

, respectively, the entire content of which is hereby incorporated by reference in this application..

☐ Certified copy(ies) of foreign application(s) is/are attached.

☒ Certified copy(ies) filed in PCT/JP99/00068

☐ This application claims the benefit of Provisional Application No. \_\_\_\_\_, filed \_\_\_\_\_, the entire content of which is hereby incorporated by reference in this application.

☒ This application is a ☒ continuation/☐ division/☐ continuation-in-part of Application No. 10/062,720, filed February 5, 2002, which in turn is a division of application Serial No. 09/380,530, filed September 2, 1999, now U.S. Patent 6,365,635, the entire content of which is hereby incorporated by reference in this application.

☒ Petition filed in prior application to extend its life to insure co-pendency.

☒ The prior application is assigned to Daiichi Suntory Pharma Co., Ltd., Tokyo, Japan.

☒ It is hereby requested that the Examiner consider the art cited in the parent application by applicant and/or the Examiner for the reasons stated therein. A listing of that art is attached.

☐ Applicant claims "small entity" status. ☐ "Small entity" statement attached.

☒ Please enter the attached preliminary amendment prior to calculation of filing fee:

☒ Also attached: ☒ Information Disclosure Statement; ☐ Non-Publication Request; ☐ Nucleotide and/or Amino Acid Sequence Submission; ☐ Statement deleting Inventor(s) named in prior application; ☐ Other:

**FILING FEE IS BASED ON CLAIMS AS FILED LESS ANY HEREWITH CANCELED**

Basic Filing Fee				\$	770.00
Total effective claims	15	- 20 (at least 20) =	0	x \$ 18.00	\$ 0.00
Independent claims	2	- 3 (at least 3) =	0	x \$ 86.00	\$ 0.00
If any proper multiple dependent claims now added for first time, add \$290.00 (ignore improper)				\$	0.00
				<b>SUBTOTAL</b>	\$ 770.00
If "small entity," then enter half (1/2) of subtotal and subtract				-\$	(0.00)
				<b>SECOND SUBTOTAL</b>	\$ 770.00
Assignment Recording Fee (\$40.00)				\$	0.00
				<b>TOTAL FEE ENCLOSED</b>	\$ 770.00

Any future submission requiring an extension of time is hereby stated to include a petition for such time extension.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our **Account No. 14-1140**. A duplicate copy of this sheet is attached.

Correspondence Address:

**Customer Number:** **23117**

Telephone: (703) 816-4000

Facsimile: (703) 816-4100

ARC:eaw

**NIXON & VANDERHYE P.C.**

By Atty: Arthur R. Crawford, Reg. No. 25,327

Signature: \_\_\_\_\_



# Notice of Allowability

Application No.

09/380,530

Examiner

Blessing M. Fubara

Applicant(s)

NOMURA ET AL.

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to paper no. 13.
2. ☒ The allowed claim(s) is/are 11-17 (claims are renumbered).
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |  |   |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____             |
| 5 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. <u>4</u> | 6 <input type="checkbox"/> Examiner's Amendment/Comment                             |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|  | 9 <input type="checkbox"/> Other  |

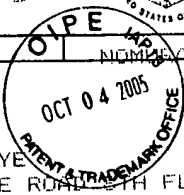
THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

09/380530



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: ASSISTANT COMMISSIONER FOR PATENTS  
Washington, D.C. 20231

U.S. APPLICATION NO. 09/380,530	FIRST NAMED APPLICANT M	ATTY-POCKET NO. 137-53
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NIXON & VANDERHYE  
100 NORTH GLEBE ROAD 5TH FLOOR  
ARLINGTON VA 22201

5071

INTERNATIONAL APPLICATION NO. PCT/JF99/00068
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I.A. FILING DATE 01/12/99	PRIORITY DATE 01/13/98
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10/18/99

DATE MAILED:

**NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371  
AND 37 CFR 1.494 OR 1.495**

1. The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as ☒ a Designated Office (37 CFR 1.494), ☐ an Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is **ACCEPTED** for national patentability examination in the United States Patent and Trademark Office.

2. The United States Application Number assigned to the application is shown above and the relevant dates are:

**02 SEP 1999**  
35 U.S.C. 102(e) DATE

**02 SEP 1999**  
DATE OF RECEIPT OF  
35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE "FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371(C) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363). Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

3. ☒ A request for immediate examination under 35 U.S.C. 371(f) was received on **02 SEP 1999** and the application will be examined in turn.

4. The following items have been received:

- ☒ U.S. Basic National Fee.
- ☒ Copy of the international application in:
  - ☒ a non-English language.
  - ☐ English.
- ☒ Translation of the international application into English.
- ☒ Oath or Declaration of inventor(s) for DO/EO/US.
- ☐ Copy of Article 19 amendments. ☐ Translation of Article 19 amendments into English.  
The Article 19 amendments ☐ have ☐ have not been entered.
- ☐ The International Preliminary Examination Report in English and its Annexes, if any.
- ☐ Copy of the Annexes to the International Preliminary Examination Report (IPER).  
☐ Translation of Annexes to the IPER into English.  
The Annexes ☐ have ☐ have not been entered.
- ☒ Preliminary amendment(s) filed **2 SEP 1999** and \_\_\_\_\_.
- ☒ Information Disclosure Statement(s) filed **2 SEP 1999** and \_\_\_\_\_.
- ☒ Assignment document.
- ☐ Power of Attorney and/or Change of Address.
- ☐ Substitute specification filed \_\_\_\_\_.
- ☐ Statement Claiming Small Entity Status.
- ☒ Priority Document.
- ☒ Copy of the International Search Report ☒ and copies of the references cited therein.
- ☐ Other: **RO 101**

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

FORM PCT/DO/EO/903 (December 1997)

Francine Young  
National Stage Processing  
Paralegal Specialist  
Telephone: (703) 295-2662

